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FILED
U.S. DISTRICT COURT
NORTHERN DIST. OF TX
FT. WORTH DIVISION

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHER DISTRICT OF TEXAS
FT. WORTH DIVISION

2008 OCT 23 PM 3:45

CLERK OF COURT

FLAVIO AGUIRRE,
Individually

Plaintiff,
v.

JOSE AGUIRRE d/b/a – Aguirre's Auto
Sales and Service

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§
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§
§
§
§

CIVIL ACTION NO.

4:08-CV-479-A

Defendant.

Plaintiff's Motion for Summary Judgment

COMES NOW PLAINTIFF and files this Motion for Summary Judgment and in support thereof would show the Court as follows:

Summary

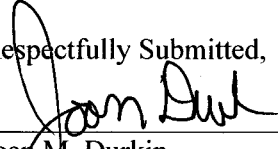
This is a suit for damages arising from Defendants' alleged failure to pay wages in accordance with the Fair Labor Standards Act [29 U.S.C. §§ 206, 207 and 215 (a)(2)].

In accordance with the Federal Rules of Civil Procedure and Local Rule 56.3 (b) of the United States District Court for the Northern District of Texas, a concise statement of the elements of each claim or defense as to which summary judgment is sought, and the legal and/or factual grounds on which Defendant relies in support of this motion are set forth in the separately filed and duly served Brief in Support of Motion for Summary Judgment ; with evidentiary materials duly filed and served on opposing party as an Appendix to Motion for Partial Summary Judgment in accordance with Local Rule 56.6.

As set forth in the Brief in support of this motion, Defendant has offered evidence to conclusively prove each necessary element of each of the claims asserted in this case. Specifically, he has offered conclusive proof that Plaintiff was a covered employee under the FLSA, that he worked in excess of 40

hours per week and that he was not paid overtime. He therefore respectfully asks the Court to GRANT this Motion for Summary Judgment and to render judgment in his favor forthwith and for such other and further relief to which he may be entitled at law or in equity.

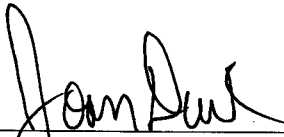
Respectfully Submitted,



Joan M. Durkin
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Certificate of Service

I hereby certify that a true and correct copy of the foregoing instrument was served by certified mail, return receipt requested on the Defendant this 21 day of October 2008.



Joan Durkin